

REMARKS

In the instant application, claim 26 has been amended, claims 2-13, 17-25, 27-28, and 31-32 have been canceled, and claims 33-77 have been newly added. Applicants reserve the right to pursue the canceled subject matter in later, to be filed applications.

Claim 26 has been amended and claims 33-77 have been added to more clearly define Applicants' invention. Support for the new claims can be found throughout the specification as filed, for example, on page 5, paragraph 15; page 7, paragraphs 22 and 25; page 14, paragraph 51; in Table 1 on page 23, row 2 to page 24, row 1; in Table 2 on pages 53, 57, and 59-65; in Table 3 on page 69; and at page 240, paragraph 592. Therefore, amended claim 26 and newly added claims 33-77 are fully supported by the application as filed.

In a restriction requirement dated October 3, 2005, the Examiner required restriction under 35 U.S.C. § 121 between:

- Group I: Claims 1-13, drawn to albumin fusion proteins NO:1 to NO:161, from Table 2, Class 530/350;
- Group II: Claim 14, drawn to method of treating disease via administration of albumin fusion proteins NO:1 to NO:161 from Table 2, Class 514/2;
- Group III: Claim 15, drawn to method of treating metabolic disorders via administration of albumin fusion proteins NO:1 to NO:161 from Table 2, Class 514/2;
- Group IV: Claims 16-25 and 27, drawn to method of treating diabetes via administration of albumin fusion proteins NO:1 to NO:161 from Table 2, Class 514/2;
- Group V: Claims 26 and 28, drawn to method of treating obesity via administration of albumin fusion proteins NO:1 to NO:161 from Table 2, Class 514/2;
- Group VI: Claim 29, drawn to method of extending the shelf life of albumin fusion proteins NO:1 to NO:161 from Table 2, Class 514/2; and
- Group VII: Claims 30-32, drawn to nucleic acid encoding albumin fusion proteins NO:1 to NO:161 from Table 2, Class 536/23.1.

Applicants first wish to point out that the originally-filed claims subject to the restriction requirement encompass albumin fusion proteins comprising an albumin or fragment or variant of albumin and a Therapeutic protein:X, which is selected from the therapeutic proteins listed in Table 1. The albumin fusion proteins listed in Table 2 are merely examples of the albumin fusion proteins that are encompassed in the originally-filed claims. Thus, contrary to the Office's characterizations of the claims as being drawn to albumin fusion proteins NO:1 to NO:161 from Table 2, the claims are not limited to the albumin fusion proteins listed in Table 2.

Nonetheless, in order to satisfy the response to the restriction requirement, Applicants provisionally elect to prosecute Group V, drawn to a method of treating obesity, with traverse. Amended claim 26 and newly added claims 33-77 are elected as part of Group V.

According to MPEP § 803, there are two requirements that must be met before a proper restriction requirement may be made: (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required. Applicants respectfully submit that the Office has failed to establish the second requirement set forth in MPEP § 803, that a serious burden exists on the Examiner if restriction is not required between the Groups of claims.

In the present invention, Group I is directed to an albumin fusion protein. Groups II-V are directed to methods of treating comprising administering the albumin fusion protein defined in Group I. Group VI is directed to a nucleic acid encoding the albumin fusion protein defined in Group I. A search and examination of the subject matter of Group V would encompass a search for the albumin fusion protein of Group I and a

nucleic acid encoding the albumin fusion protein of Group VI. A search and examination of the subject matter of Group V would also encompass a search for the subject matters of Groups II-IV, as indicated by the same class and subclass 514/2 accorded to each of these Groups. Therefore, any additional search would not impose a serious burden upon the Examiner.

It is therefore respectfully requested that the restriction requirement be reconsidered. In the event that the restriction requirement is maintained, Applicants reserve the right to file divisional applications on the non-elected inventions and/or to request rejoiner of appropriate claims once the subject matter of claims 26 and 33-77 is found allowable.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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